



**REQUEST FOR MODIFICATION OF BUILDING ORDINANCES**  
UNDER AUTHORITY OF L.A.M.C. SECTION 98.0403

|                                                                                                                                                                      |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>PERMIT APP. #:</b>                                                                                                                                                |                            | <b>DATE:</b>                                         |                                                                                                                                                                              |                          |                          |                          |                          |
| <b>JOB ADDRESS:</b>                                                                                                                                                  |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| <b>Tract:</b> 7011                                                                                                                                                   |                            | <b>Block:</b> 4                                      | <b>Lot:</b> 33                                                                                                                                                               |                          |                          |                          |                          |
| <b>Owner:</b> Black Pyramid, LLC                                                                                                                                     |                            | <b>Petitioner:</b> Black Pyramid, LLC                |                                                                                                                                                                              |                          |                          |                          |                          |
| <b>Address:</b>                                                                                                                                                      |                            | <b>Address:</b>                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| <b>City</b><br>Los Angeles                                                                                                                                           | <b>State</b><br>California | <b>Zip</b><br>90017                                  | <b>Phone</b>                                                                                                                                                                 |                          |                          |                          |                          |
| <b>City</b>                                                                                                                                                          | <b>State</b>               | <b>Zip</b>                                           | <b>Phone</b>                                                                                                                                                                 |                          |                          |                          |                          |
| <b>REQUEST (SUBMIT PLANS OR ADDITIONAL SHEETS AS NECESSARY)</b>                                                                                                      |                            | <b>CODE SECTIONS: 98.0403</b>                        |                                                                                                                                                                              |                          |                          |                          |                          |
| <b>FIND THAT LADBS ERRED OR ABUSED ITS DISCRETION (RESIDENTIAL: Building, Electrical, Plumbing, Mechanical Code Enforcement Only) IN ISSUING ORDER No. A-3248943</b> |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| <b>JUSTIFICATION (SUBMIT PLANS OR ADDITIONAL SHEETS AS NECESSARY)</b>                                                                                                |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
|                                                                                                                                                                      |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
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|                                                                                                                                                                      |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| Black Pyramid, LLC                                                                                                                                                   |                            | Mark J. Geragos /s/                                  |                                                                                                                                                                              |                          |                          |                          |                          |
| <small>Owner/Petitioner Name (Print)</small>                                                                                                                         |                            | <small>(Signature)</small>                           |                                                                                                                                                                              |                          |                          |                          |                          |
|                                                                                                                                                                      |                            | Attorney for Petitioner                              |                                                                                                                                                                              |                          |                          |                          |                          |
| <small>Position</small>                                                                                                                                              |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| <b>FOR CITY DEPARTMENT'S USE ONLY BELOW THIS LINE</b>                                                                                                                |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| <b>Concurrences required from the following Department(s):</b>                                                                                                       |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| <input type="checkbox"/> Los Angeles Fire Department                                                                                                                 | <small>Print Name</small>  | <small>Sign</small>                                  | <table border="0"><tr><td><small>Approved</small></td><td><small>Denied</small></td></tr><tr><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr></table> | <small>Approved</small>  | <small>Denied</small>    | <input type="checkbox"/> | <input type="checkbox"/> |
| <small>Approved</small>                                                                                                                                              | <small>Denied</small>      |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| <input type="checkbox"/>                                                                                                                                             | <input type="checkbox"/>   |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| <input type="checkbox"/> Public Works Bureau of Engineering                                                                                                          | <small>Print Name</small>  | <small>Sign</small>                                  | <table border="0"><tr><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr></table>                                                                        | <input type="checkbox"/> | <input type="checkbox"/> |                          |                          |
| <input type="checkbox"/>                                                                                                                                             | <input type="checkbox"/>   |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| <input type="checkbox"/> Department of City Planning                                                                                                                 | <small>Print Name</small>  | <small>Sign</small>                                  | <table border="0"><tr><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr></table>                                                                        | <input type="checkbox"/> | <input type="checkbox"/> |                          |                          |
| <input type="checkbox"/>                                                                                                                                             | <input type="checkbox"/>   |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| <input type="checkbox"/> Other                                                                                                                                       | <small>Print Name</small>  | <small>Sign</small>                                  | <table border="0"><tr><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr></table>                                                                        | <input type="checkbox"/> | <input type="checkbox"/> |                          |                          |
| <input type="checkbox"/>                                                                                                                                             | <input type="checkbox"/>   |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| <b>DEPARTMENT ACTION</b>                                                                                                                                             |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| <input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED                                                                                                     |                            | <small>Reviewed by: (SE-IT) (print)</small>          | <small>Sign</small>                                                                                                                                                          |                          |                          |                          |                          |
|                                                                                                                                                                      |                            |                                                      | <small>Date</small>                                                                                                                                                          |                          |                          |                          |                          |
|                                                                                                                                                                      |                            | <small>Action taken by: (Supervisor) (print)</small> | <small>Sign</small>                                                                                                                                                          |                          |                          |                          |                          |
|                                                                                                                                                                      |                            |                                                      | <small>Date</small>                                                                                                                                                          |                          |                          |                          |                          |
| <b>NOTE: IN CASE OF DENIAL, SEE PAGE #2 OF THIS FORM FOR APPEAL PROCEDURES</b>                                                                                       |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| <b>CONDITIONS OF APPROVAL (Continued on Page 2):</b>                                                                                                                 |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
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|                                                                                                                                                                      |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| <b>FEES</b>                                                                                                                                                          |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| Appeal Processing Fee (No. of Items) = 1     \$130 + \$39/addl = 130.00                                                                                              |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| Inspection Fee (No. of Insp.) = 1   X     \$84.00 = 84.00                                                                                                            |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| Research Fee (Total Hours Worked) = 2   X     \$104.00 = 208.00                                                                                                      |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| Subtotal = 422.00                                                                                                                                                    |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| Surcharge (SUBTOTAL) 422.00 X .06 = 25.32                                                                                                                            |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| Total Fees = 447.32                                                                                                                                                  |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| Fees verified by: <u>Dean Sharon A. [Signature]</u>                                                                                                                  |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |
| Print and Sign: <u>Dean Sharon A. [Signature]</u>                                                                                                                    |                            |                                                      |                                                                                                                                                                              |                          |                          |                          |                          |

**For Cashiers Use Only**  
(PROCESS ONLY WHEN FEES ARE VERIFIED)

Permit App #:

Job Address:

**CONDITIONS OF APPROVAL (Continued from Page 1)**

**CITY OF LOS ANGELES  
BOARD OF BUILDING AND SAFETY/DISABLED ACCESS  
COMMISSION APPEAL FORM**

(Must be Attached to the Modification Request Form, Page 1)

**AFFIDAVIT – LADBS BOARD OF BUILDING AND SAFETY COMMISSIONERS – RESOLUTION NO. 832-93**

I, \_\_\_\_\_ do state and swear as follows:

(Print or Type Name of the Person Signing this Form)

1. The name and mailing address of the owner of the property (as defined in the resolution 832-93) at \_\_\_\_\_ as shown on the appeal application (LADBS Com 31) are correct, and
2. The owner of the property as shown on the appeal application will be made aware of the appeal and will receive a copy of the appeal.

I declare under PENALTY OF PERJURY that the foregoing is true and correct.

Owner's Name(s) \_\_\_\_\_  
(Please Type or Print) (Please Type or Print)

Owner's Signature(s) \_\_\_\_\_ (Two Officers' Signatures Required for Corporations)  
(Please Sign)

Name of Corporation \_\_\_\_\_  
(Please Print Name of Corporation) (Please Type or Print)

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT \_\_\_\_\_ SIGNATURE(S) MUST BE NOTARIZED**

State of CALIFORNIA County of LOS ANGELES on \_\_\_\_\_

before me, \_\_\_\_\_ personally appeared \_\_\_\_\_  
Name, Title of Officer (e.g. Jane Doe, Notary Public) Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument in person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

**APPEAL OF DEPARTMENT ACTION TO THE BOARD OF BUILDING AND SAFETY  
COMMISSIONERS/DISABLED ACCESS APPEALS COMMISSION**

Applicant's Name \_\_\_\_\_

Applicant's Title \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

**FEES**

|                                                        |                               |   |        |
|--------------------------------------------------------|-------------------------------|---|--------|
| Board Fee .....                                        | (No. of Items) 1.00           | = | 215.00 |
| Inspection Fee .....                                   | (No of Insp.) = 1.0 X \$84.00 | = | 84.00  |
| Research Fee ... (Total Hours Worked) = 2.0 X \$104.00 |                               | = | 208.00 |
| Subtotal .....                                         |                               | = | 507.00 |
| Surcharge .....                                        | (SUBTOTAL) 507.00 X .06       | = | 30.42  |
| Total Fees .....                                       |                               | = | 537.42 |

Fees verified by:

Print and Sign \_\_\_\_\_

**For Cashiers Use Only**  
(PROCESS ONLY WHEN FEES ARE VERIFIED)



# GERAGOS & GERAGOS

A PROFESSIONAL CORPORATION  
LAWYERS

644 SOUTH FIGUEROA STREET  
LOS ANGELES, CALIFORNIA 90017-3411  
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## Attachment A

Pursuant to Los Angeles Municipal Code Sections 98.4043.1 and 94.0403.2, Black Pyramid, LLC hereby appeals Order Number A-3248943 which alleges Black Pyramid violated Los Angeles Municipal Code Sections 12.21A.7.(h) and 12.21A.1.(a). Petitioner, Black Pyramid, requests a hearing to determine error or abuse of discretion with regard to issuance of the Order, or in the alternative to request slight modification of the requirements contained in the Order.

Petitioner contends that Los Angeles Municipal Code Sections 12.21A.7.(h) and 12.21A.1.(a) are inapplicable. The Order alleges Black Pyramid has violated LACM section 12.21A.7(h) which states the following:

(h) There may be one or more signs identifying the buildings or permitted use (except that no signs shall be permitted to identify a home occupation) on any lot in any "R" Zone, but no one sign may have a surface area which exceeds 20 square feet, nor shall the total surface area of all these signs exceed 30 square feet;

The Order further alleges that as a result, Black Pyramid is also in violation of section 12.21A.1.(a), for failing to obtain proper permits. Section 12.21A.1.(a) states:

(a) **Permits and Licenses.** No building or structure shall be erected, reconstructed, structurally altered, enlarged, moved, or maintained, nor shall any building, structure, or land be used or designed to be used for any use other than is permitted in the zone in which such building, structure, or land is located and then only after applying for and securing all permits and licenses required by all laws and ordinances.

The allegations are false. Site address [REDACTED] is exclusively used as a single family residential structure. The murals do not identify a specific "use" of the property. Rather, the murals painted on the exterior of the structure are for the sole purpose of enhancing the architectural and aesthetic features of the residential property. The term "signage" as used in the context of the sections cited by the Order does not properly describe the artwork painted on the exterior of the structure. Even if the term signage were applied, the site address is exempt from obtaining permits because the signs are non-illuminated paintings. See *California Building Code, Appendix H, section H101.1 and H101.2*. Thus, the code sections cited by the Order are inapplicable.

More importantly however the murals are a reflection of the homeowner's aesthetic taste and a reflection of free speech and expression protected by the First Amendment to the United States Constitution. Like spoken and written word, artistic expressions enjoy First Amendment protections. See *Kaplan v. California* (1973) 413 U.S. 115, 119–120; U.S.C.A. Const.Amend. 1. Further, non-commercial speech is afforded more protections than non-commercial speech. *Zauderer v. Office of Disciplinary Counsel of Supreme Court of Ohio*, 471 U.S. 626, 637. Here, the murals painted on the exterior of [REDACTED], is non-commercial speech as it does not propose a commercial transaction.

Here, Petitioner alleges that the city of Los Angeles and the Department of Building & Safety's application of the code sections alleged to have been violated and cited in the Order are not content neutral as applied to [REDACTED]. On its face the notice does not suggest that the city considered the content of the murals before citing Petitioner. However, despite the city's claim that the murals were subject to the ordinances' permit requirements and spatial constraints, there is ample evidence thanks to media outlets that the Department of Building & Safety initially responded to the site address after receiving complaints from neighboring properties about the content of the art. For instance the Los Angeles Times published a statement from neighbor, Patti Negri, who is the president of the Hollywood Dell Civic Association stating the following:

"[t]here are lots of babies, lots of children, and they're literally frightened. It's like devils on the wall — big scary eyes and big scary teeth, and just the whole vibe is not what we're used to..."

See *Los Angeles Times*, May 11, 2013, <http://www.latimes.com/local/lanow/la-me-ln-chris-browns-lawyer-says-neighbors-harassing-pop-star-20130511,0,3362178.post>.

Petitioner's contention that the murals are being targeted for their content is also supported by the presence of other non-permitted murals in the city of Los Angeles, which have been praised by the city of Los Angeles describing the gallery of street art as an "endangered species."

However, the municipality's esthetic judgments as they applied with respect to the murals painted on the exterior structure of [REDACTED] are "necessarily subjective." When fundamental rights of speech are at stake the government must show something more than an esthetic interest to justify suppression of such right. See *Metromedia, Inc. v. City of San Diego* (1981) 453 U.S. 490, 510 and *City of Indio v. Arroyo* (1983) 143 Cal.App.3d 151. And although esthetic interest is a legitimate governmental interest, it cannot be justification for suppressing the rights of private persons expressing non-commercial artistry. *City of*



*Indio v. Arroyo* (1983) 143 Cal.App.3d 151, 159. As the California Court of Appeal stated in *Arroyo*, “[t]he stifling of artistic expression is a perverse result to claim as a victory for esthetics.” *Id.*

If the evidence determines that the application of the regulations cited in the Order are being applied in a content-based manner to the murals on the exterior of [REDACTED], then they will be subject to strict scrutiny on Petitioner’s First Amendment claim. Under a strict scrutiny approach, the city of Los Angeles must make a showing that its favorable treatment of some murals and not others promote its purported interests. To withstand strict scrutiny test, the City must show that its content based regulations are narrowly tailored to serve a compelling government interest.

Petitioner further challenges the Order on Constitutional grounds because the alleged violation is based on an unconstitutionally vague statute. A statute will be unconstitutionally vague if it “fails to give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly.” *Grayned v. City of Rockford* (1972) 408 U.S. 104, 108. The Order essentially states that by designing the exterior of the site address with murals, Petitioner violated section 12.21A.7.(h) which states:

(h) There may be one or more signs identifying the buildings or permitted use (except that no signs shall be permitted to identify a home occupation) on any lot in any “R” Zone, but no one sign may have a surface area which exceeds 20 square feet, nor shall the total surface area of all these signs exceed 30 square feet;

The term “sign” in the context of section 12.21A.7.(h) is unconstitutionally vague as it applies to non-commercial murals painted on the exterior of a residential property. Statutes and ordinances that regulate or restrict the exercise of First Amendment rights must survive “exacting scrutiny” by a showing that the law furthers an important or substantial government interest. *City of Indio v. Arroyo* (1983) 143 Cal.App.3d 151, 157. Such laws must neither be vague nor substantially over or under--inclusive, but rather “drawn with narrow specificity to avoid unnecessary intrusion on freedom of expression.” *Id.*

The constitutionally vague analysis was applied in the matter of *City of Indio v. Arroyo* (1983) 143 Cal.App.3d 151, where the Court of Appeal for the Fourth Appellate District held a city permitting ordinance unconstitutionally overbroad in violation of the First Amendment to the United States Constitution and Article I, Section 2 of the California Constitution insofar as it was applied to require removal of murals that did not contain commercial speech. There, the Arroyos were alleged to have violated the city’s permit

ordinance requiring advance permits from the city prior to erecting signs on walls. *Id.* at 154. The ordinance required removal of such wall signs within 30 days of receipt of a written notice of the violation from the city. *Id.* at 155. The Arroyos were required by the city of Indio to remove murals which depicted aspects of Mexican heritage for having failed to obtain a permit from the city. *Id.* at 155-56. The Arroyos applied for a permit to save the murals, however, after the city staff conducted a “design review” of the murals, the application for the permit was denied, after a leader of a community group in attendance of the city variance hearing, suggested “[t]oo much importance is lend[ed] to works of art” and suggested that the art “should be inside a building or on public buildings on an approved method of producing the art, perhaps under an art committee for the city.” *Id.* at 156. The application was thereafter denied. *Id.*

The California Court of Appeal reviewed the city’s permitting statute, and held it unconstitutional on grounds that the permitting ordinance did not specify definite, objective guidelines for issuance or denial of permits. First, the Court explained that because the ordinance required a person to obtain a permit before erecting a “sign” in the city and the city planning director is given considerable latitude and discretion in issuing the permit, the ordinance imposes a system of prior restraint through its permit requirement. *Id.* at 158. Although the court acknowledged the city’s concerns with urban blight and esthetics as legitimate, it ultimately held that the concern is not justification for suppressing non-commercial artistic expression, a form of speech protected by the First Amendment. *Id.* at 158-59. The court explained, “[t]he purpose of Indio’s sign ordinance is not served by its application to noncommercial wall murals, and we hold the ordinance overbroad as applied to such murals.” *Id.* at 159. The court went on to give guidance to the city with regard to appropriate mural regulations suggesting that such ordinances would be constitutional if the city could demonstrate that these sorts of murals created traffic hazards or that the building that the mural was painted on did not comply with structural and fire safety requirements – or on the other hand, if the city made a showing that the subject of the mural met the constitutional test for obscenity. *Id.* at 159.

The *Arroyo* court also analyzed Constitutional procedural defects inherent in the city’s permitting ordinance. *Id.* The Court again held the ordinance unconstitutional as it failed to provide narrow and definite objective guidelines for issuance and requirements of permits – as required since the ordinance would impede on a person’s First Amendment right of free expression. Citing a slew of California cases [ *Burton v. Municipal Court* (1968) 68 Cal.2d 684; *Ebel v. City of Garden Grove* (1981) 120 Cal.App.3d 399; and *City of Imperial Beach v. Escott* (1981) 115 Cal.App.3d 134], the court reiterated that where criteria for permit issuance is subjective “the vice of vagueness is particularly pronounced

where *expression* is subject to licensing.” *Id.* at 160. Applying this criteria, the Appellate Court held the permitting ordinance is procedurally unconstitutional as it empowered the planning director unfettered discretion to exercise his own personal esthetic judgment in determining whether or not a permit will be issued. *Id.* at 160-161.

A reading of the statute in the instant matter and its application to the murals painted on the exterior of [REDACTED] makes this matter indistinguishable from the *Arroyo* case. First, the permitting statutes at issue present a prior restraint on Petitioner’s freedom of expression. The statutes essentially require Petitioner to obtain permits by presenting a plan to the Department of Building and Safety and/or the Department of Cultural Affairs. The permitting procedures would necessarily require a design review of Petitioner’s suggested murals where the city would inevitably apply its esthetic judgments to Petitioner’s plans in determining whether or not to grant the permit. Not only does this present an issue of unfettered discretion as far as the design review process goes but also a non-compelling governmental interest that is not justified compared to the risk of suppressing Petitioner’s fundamental rights.

Finally, section 12.21A.7.(h) give little guidance as to its applicability to Petitioner’s conduct. Petitioner contends that section Section 12.21A.1.(a), is similarly vague as it makes no reference or implication that it applies to non-commercial murals painted on the exterior of residential property. Being that the statutes nevertheless impede on the property owner’s artistic expressions, a form of non-commercial protected speech under the First Amendment to the Constitution, the statutes are vague, overbroad, and not narrow and definite as constitutionally required.

**GERAGOS & GERAGOS**  
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LOS ANGELES, CA 90017

California Bank & Trust  
578 South Grand Ave.  
Covina, CA 91724

19713

16-339/1220  
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5/22/2013

PAY TO THE ORDER OF city of Los Angeles Building & Safety

\$\*\*447.32

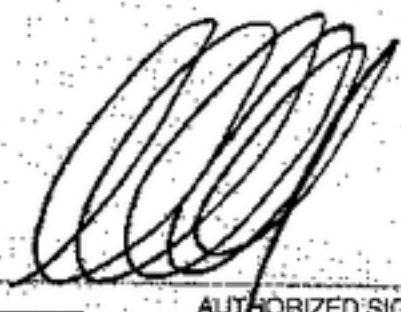
Four Hundred Forty-Seven and 32/100\*\*\*\*\*

City of Los Angeles Building & Safety

DOLLARS

MEMO

Black Pyramid - Case No. 498817



AUTHORIZED SIGNATURE

**GERAGOS & GERAGOS**

**A PROFESSIONAL CORPORATION**

19713

city of Los Angeles Building & Safety

5/22/2013

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